

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

KAPLAN, INC.

Plaintiff,

vs.

KENNETH CHOU, BENNY Y. CHANG,  
JASON HANSON, DOES 2 through 20, AND  
UNKNOWN ENTITY d/b/a, USMLEPRO,  
USMLE TEST CENTER, INC. and SIMILAR  
NAMES

Defendants.

Civil Action No: 1:07-cv-10677-HB  
Honorable Harold Baer, Jr.  
ECF Case

Trial by jury is demanded.

**APPLICATION FOR ENTRY OF CLERK'S  
CERTIFICATE OF DEFAULT AS TO DEFENDANT KENNETH CHOU**

Plaintiff KAPLAN, INC. hereby applies, pursuant to Federal Rule of Civil Procedure 55(a) and SDNY Rule 55.1, for entry of a certificate of default by the clerk as to defendant KENNETH CHOU only. This application is supported by the attached affidavit of counsel and is accompanied by a proposal form of certificate.

Respectfully submitted,

By:



Thomas W. Kirby (TK 2182) *pro hac vice*  
Wiley Rein LLP  
1776 K Street, N.W.  
Washington, DC 20006  
(202) 719-7000

Scott E. Bain (SB 1255)  
The Software & Information Industry Association  
1090 Vermont Avenue, NW, Suite 600  
Washington, DC 20005  
(202) 789-4492

*Attorneys for Plaintiff*

Dated: May 6, 2008

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

KAPLAN, INC.

Plaintiff,

vs.

KENNETH CHOU, BENNY Y. CHANG,  
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Defendants.

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**AFFIDAVIT FOR CLERK'S CERTIFICATE OF DEFAULT**

DISTRICT OF COLUMBIA )

CITY OF WASHINGTON )

ss.:

Thomas W. Kirby, being duly sworn, deposes and says:

1. I am a member of the Bar of the District of Columbia and have been admitted *pro hac vice* in this case. I am a partner in the firm of Wiley Rein LLP, attorneys for plaintiff in the above-entitled action and I am familiar with all the facts and circumstances in this action.

2. I make this affidavit pursuant to Rule 55.1 of the Civil Rules for the Southern District of New York, in support of plaintiff's application for the entry of a clerk's certificate of default as to defendant KENNETH CHOU only.

3. This is an action to secure injunctive relief and to recover statutory and actual damages owed by defendant to plaintiff for infringing plaintiff's copyrighted instructional materials and infringing plaintiff's trademarks.

4. Jurisdiction of the subject matter of this action is based on 17 U.S.C. §101 *et seq.*; and 28 U.S.C. §§1331, 1338(a) and 1367. .

5. This action was commenced on November 29, 2007 by the filing of the summons and complaint. KENNETH CHOU was made a named defendant by the First Amended Complaint docketed March 6, 2008. A copy of the summons then issued and the amended complaint was served on defendant KENNETH CHOU on April 5, 2008 by personal service on KENNETH CHOU. The service was made by commercial process server Richard Rickert, who handed the summons and complaint to KENNETH CHOU at Apartment No. 409, 60 Presidential Plaza, Syracuse, New York 13202. Proof of service by the commercial process server was filed on April 28, 2008. Defendant KENNETH CHOU has not answered the complaint and the time for the defendant to answer the complaint has expired.

6. Defendant KENNETH CHOU, an individual, is not a minor, is not incompetent, and is not in the military service of the United States. Rather, he is about 29 years of age and is a medical student attending Upstate Medical University in Syracuse, New York.

WHEREFORE, plaintiff requests the entry of a clerk's certificate of default as to defendant KENNETH CHOU.

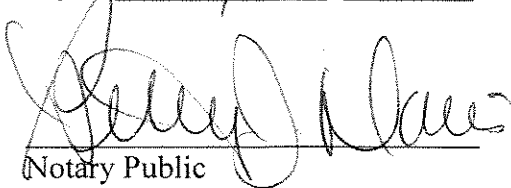
Dated: Washington, D.C.

May 6, 2008



Thomas W. Kirby (TK 2182)

Sworn to before me this 6th  
day of May, 2008.

  
Notary Public

My Commission Expires September 14, 2009

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

|                                      |   |                                   |
|--------------------------------------|---|-----------------------------------|
| KAPLAN, INC.                         | ) |                                   |
|                                      | ) |                                   |
|                                      | ) |                                   |
| Plaintiff,                           | ) |                                   |
|                                      | ) |                                   |
| vs.                                  | ) | Civil Action No: 1:07-cv-10677-HB |
|                                      | ) | Honorable Harold Baer, Jr.        |
| KENNETH CHOU, BENNY Y. CHANG,        | ) | ECF Case                          |
| JASON HANSON, DOES 2 through 20, AND | ) |                                   |
| UNKNOWN ENTITY d/b/a, USMLEPRO,      | ) |                                   |
| USMLE TEST CENTER, INC. and SIMILAR  | ) |                                   |
| NAMES                                | ) | Trial by jury is demanded.        |
|                                      | ) |                                   |
| Defendants.                          | ) |                                   |

**CLERK'S CERTIFICATE**

I, J. MICHAEL MCMAHON, Clerk of the United States District Court for the Southern District of New York, do hereby certify that this action commenced on November 29, 2007 with the filing of a summons and complaint. KENNETH CHOU was made a named defendant by the First Amended Complaint docketed March 6, 2008. A copy of the summons then issued and the amended complaint was served on defendant KENNETH CHOU on April 5, 2008 by personal service on KENNETH CHOU. The service was made by commercial process server Richard Rickert, who handed the summons and complaint to KENNETH CHOU at Apartment No. 409, 60 Presidential Plaza, Syracuse, New York 13202. Proof of service was filed on April 28, 2008.

I further certify that the docket entries indicate that defendant KENNETH CHOU has not filed an answer or otherwise moved with respect to the complaint herein. The default of defendant KENNETH CHOU is hereby noted.

Dated: New York, New York

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**J. MICHAEL MCMAHON**  
Clerk of the Court

By: \_\_\_\_\_  
Deputy Clerk

**AFFIRMATION OF SERVICE**

I, Thomas W. Kirby, certify under penalty of perjury that a copy of the attached Application has been mailed this 6<sup>th</sup> day of May 2008 by first class mail, postage prepaid, to the following two persons, who are or represent the only defendants served in this action:

Benny Y. Chang  
1 Hazelnut  
Irvine, CA 92614

Charles C. H. Wu, Esq.  
Wu & Cheung, LLP  
98 Discovery  
Irvine, CA 92618-3105  
(Counsel for Kenneth Chou)



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Thomas W. Kirby

May 6, 2008